IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

VIRGIL IRA McCLUNG, Jr., #160268, *
Petitioner
*
v. CIVIL ACTION NO. WMN-04-2795
*
JAMES ROLLINS,
Respondent. *
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MEMORANDUM

Petitioner filed a "Motion to Correct Sentence and Commitment," which was construed as a Petition for Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2241. Petitioner contends that Respondent failed to amend his sentence and commitment order to reflect the June 6, 1991 Order of this court which vacated his sentence for robbery with a deadly weapon. Paper No. 1; *see McClung v. Rollins*, JFM-88-1542 (D. Md. 1988).

On November 19 and December 10, 2004, Respondent filed his Response to the Petition. Paper Nos. 10 and 13. Petitioner has filed a reply.[1] Paper No. 18. The documents filed by Respondent reveal that records maintained by the Circuit Court for Prince George's County, Maryland, did not reflect this Court's June 6, 1991 Order vacating Petitioner's conviction for robbery with a deadly weapon. Paper No. 10. On June 7, 2004, the Circuit Court for Prince George's County entered a revised commitment order which failed to reflect that Petitioner's robbery conviction was vacated. Accordingly the Maryland Division of Correction ("DOC") did not amend Petitioner's commitment record.

[1]The Court is also in receipt of Petitioner's "Amended Petitions for Habeas Corpus" wherein he seeks to reopen *McClung v. Rollins*, JFM-88-1542 based on ineffective assistance of post conviction counsel and federal habeas corpus counsel. Paper Nos. 8 and 14. These claims are not cognizable. *See* 28 U.S.C. §2254(i); *Coleman v. Thompson*, 501 U.S. 722, 755-57 (1991); *Mackall v. Angelone*, 131 F.3d 442, 445-51(4th Cir. 1997 (*en banc*).

As a result of the instant proceedings, the DOC now maintains a copy of this court's June 6, 1991 Order as part of Petitioner's commitment record and in accordance with that order the DOC has amended Petitioner's records to reflect that the robbery with a deadly weapon conviction was vacated. Paper No. 10, Ex. D. The DOC also notified the Maryland Parole Commission as to the change in Petitioner's commitment records. *Id*., Ex. E. Additionally, on December 7, 2004, the Circuit Court for Prince George's County issued an Order directing that the commitment be modified so as to delete any referenced to the robbery conviction. Paper No. 13, Ex. A.

The documents supplied by Respondent are sufficient to demonstrate to this court's satisfaction that Petitioner's commitment records have been corrected and he has now received all of the relief to which he is entitled. In light of the foregoing, Petitioner's habeas challenge has been rendered moot.

A separate Order shall be entered dismissing this Petition without oral hearing.

/s/

April 28, 2005
Date

William M. Nickerson
Senior United States District Judge